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FOR G/TIP, EAP/J, L/LEI, EAP/RSP

E.O. 12958: N/A

TAGS: PREL PHUM KCRM KWMN JA

SUBJECT: ADVOCATING FOR TIP VICTIM IDENTIFICATION

PROCEDURES IN JAPAN

REF: A. HANSEN + G/TIP + EAP/J + EAP/RSP + L/LEI EMAIL

1B. TOKYO 3186

1C. TOKYO 3955

1D. TOKYO 3817

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11. Embassy Tokyo Political Officer met October 18 with MOFA International Organized Crime Division TIP Officer Hiroko Sasahara to discuss formal procedures for identifying victims of human trafficking. In proposing steps that Japan could take in this regard, Embassy Political Officer delivered Ref A's "Clarification of Action 3" (full text in paragraph 3) to clarify the third action item of the "Roadmap to Tier 1," presented to the Japanese government July 2 (Ref B). Sasahara said she will forward the document to the other members of Japan's anti-TIP inter-ministerial committee.

12. Sasahara also expressed gratitude for Ref C's "Clarification of Action 1," noting that the Ministry of Health, Labor, and Welfare has begun meeting with NGOs to determine how to respond to our concerns about the government's reliance on prefecture-level "Women's Consulting Centers" to shelter victims of human trafficking. Japan will brief the United States on what other actions it intends to take in response to the roadmap once it has received the rest of the answers to Ref D's "Questions about the Roadmap," she added.

13. Begin paper text:

Clarification of Action 3, Tier 1 Roadmap

Summary:

Because victims of human trafficking rarely self-identify, law enforcement officials on the "front-line" of contact with potential victims must be trained in proactive victim identification procedures. To prevent victims from being penalized as illegal immigrants (including detention and deportation), and to comply with Minimum Standard 4, Criteria 2 of the Trafficking Victims Protection Act of 2000, as amended, the government of Japan should adopt standard procedures for identifying victims of trafficking in persons.

Minimum Standard 4, Criteria 2: Whether the government of the

country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

IA. Effective victim identification procedures are necessary for compliance with Minimum Standard 4, Criteria 2.

We have heard reports of women otherwise classifiable as victims of human trafficking being deported as violators of immigration law by Japanese authorities. Without formal victim identification procedures, Japan cannot guarantee that victims of human trafficking are not being deported as criminals. Ensuring that victims are not improperly fined, incarcerated, or deported as criminals is necessary to comply with Minimum Standard 4, Criteria 2.

Note: These reports come from credible sources. As stated in the Trafficking in Persons Report, the Department of State assesses each country's trafficking situation and governmental action based on thorough research, including meetings with a wide variety of government officials, local and international NGO representatives, international organization officials, journalists, academics, and survivors. It is Department policy to protect the confidentiality of these meetings.

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IB. Victims rarely self-identify

Trafficking victims have many legitimate reasons why they may be reluctant to discuss the details of their trafficking experience, especially during initial interviews. Victims may be afraid of reprisals against themselves or their family. In other cases, victims might feel loyalty to their trafficker. Even if victims have personal relationships with

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their traffickers, this should not lead to a presumption that the person is not a victim or was acting voluntarily. In addition, trafficking victims often have often had their trust in people severely violated during the course of being trafficked. Because of this, they may be very distrustful of others and suspicious of the interviewer's motives, especially when the interviewer is a police officer. Victims often come from societies with corrupt authorities. Because of their distrust of police in their home countries, trafficking survivors usually fear law enforcement agents in the country where they are being exploited as well. Victims are also lied to by traffickers about police brutality and deportation, causing them to believe that authorities will treat them as criminals, incarcerate them, or deport them. Some victims may also suffer from memory loss. Due to trauma or other causes (drug or alcohol use, for example) victims may not be able to remember all of the details of what happened to them.

Shame is also a factor in preventing victims from self-identifying. Females from some cultures may be reluctant to seek assistance in these cases because of the shame and stigmatization that might come from disclosing sexual abuse or violence. Males from some cultures, particularly those with a very rigid concept of masculinity, may not want to admit their victimization or fear because they believe they will risk diminishing their masculine identity.

IC. Law enforcement officials must be specifically trained to recognize victims of human trafficking.

The dominant mission of law enforcement agents in any country is to ensure public safety by identifying criminal activity and arresting criminals. Accordingly, a police officer's priority when interviewing potential victims is to build a

criminal case. This priority leads police to ask questions that may not be appropriate for the proper identification of a victim of trafficking in persons. Without specific procedures for identifying victims of trafficking in persons, police and immigration officers are less likely to recognize the signs that a person has been trafficked. Prior to establishing victim identification procedures in the United States, police trained to arrest women for violating anti-prostitution laws found it difficult to differentiate between trafficking victims and prostitution-law violators. Immigration officers trained to determine whether someone was in the United States legally regarded victims of trafficking as illegal immigrants, undocumented workers, or prostitutes. When law enforcement focuses solely on criminal identities, innocent victims are incarcerated and deported.

Police and immigration officers, especially those who have frequent contact with sex workers or laborers, must be trained in a formal questioning strategy to elicit information about captivity, forced work, coerced sexual acts, and abuse by perpetrators. Although the NPA organizes conferences in Tokyo for police that include information about victim identification, these measures are not an adequate substitute for including formal trafficking victim identification procedures in police and immigration officer training curricula. Proper screening begins with an assessment of indicators that can be evaluated before interviewing an individual. The following indicators can flag potential victims:

- The age of the potential victim;
- The nature of the victim's job (Hostess Bar, "Delivery Health," etc.);
- Evidence of being controlled;
- Bruises or other signs of physical abuse;
- Fear or depression;
- The potential victim not speaking for herself or not speaking local language; or
- No passport or other forms of identification or documentation.

If one or more of these indicators is present, the interviewer should pursue questions that will help identify the key elements of a trafficking scenario:

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- What type of work do you do?
- How did you learn about this job? How did you apply?
- Did you pay your recruiter? Who paid for your travel expenses?
- How did you enter Japan?
- Has your identification or documentation been taken from you?
- Where is your passport?
- Are you doing the job you expected to do?
- How soon after arriving in Japan did you start working?
- Are you being paid? How much? Did you get to keep the money yourself?
- Did you have to repay a debt?
- Can you leave your job if you want to?
- Can you come and go as you please?
- Have you or your family been threatened?
- What are your working and living conditions like?
- Where do you sleep and eat?
- Do you have to ask permission to eat/sleep/go to the bathroom?
- Are there locks on your doors/windows so you cannot get out?

ID. Early victim identification is vital to effective investigation and prosecution. Actions taken at the beginning of a trafficking investigation are critical. An international survey of trafficking cases brought to court shows that the early identification of victims and the subsequent responses of investigators

determine the speed, ease, and success of prosecuting traffickers. Ultimately, the most successful results involve first-response agents with formal training in victim identification procedures. Such investigators show more sensitivity to the needs of the victims, know how best to handle them, and are aware of superior sources of information to corroborate evidence. The fact that local police have been instructed to contact the National Police Agency's Consumer and Environmental Protection Division to report a suspected case of trafficking is an important initial step. We hope the Japanese government will continue to promote this valuable procedure in addition to adopting victim identification procedures.

E. U.S. Procedures

For your reference, we have attached the International Organization for Migration's "Screening Interview Form," which provides an excellent example of victim identification procedures. We have also attached an unofficial translation of the guidelines for victim identification used by U.S. law enforcement personnel, NGOs, and the general public.

End paper text.
SCHIEFFER